purpose (or only expected NASA involvement) is the publication or dissemination of the results, such as in journals or NASA publications (see §1260.21).

(i) *Clean Air and Federal Water Pollution Control Acts.* (1) By accepting a grant that contains §1260.33, the recipient agrees that the expenditure of grant funds is in compliance with the Acts.

(2) The Administrator may approve exemptions from this prohibition under certain circumstances under E.O. 11738. Requests for exemptions or renewals thereof shall be made to the Office of Procurement, NASA Headquarters, Contract Management Division (Code HK), Washington, DC 20546.

[61 FR 38059, July 23, 1996, as amended at 62 FR 63452, Dec. 1, 1997]

§1260.12 Choice of award instrument.

(a) This section and §1260.111 provide guidance on the appropriate choice of award instruments consistent with 31 U.S.C. 6301 to 6308. Throughout §1260.12, the term *grant* does not include ''cooperative agreements.''

(b) A procurement contract is a mutually binding legal relationship obligating the seller to furnish supplies or services (including construction), and the buyer pays for them.

(1) The principal purpose of a procurement contract is to acquire, for NASA's direct use or benefit, a well-defined, specific effort clearly required for the accomplishment of a scheduled NASA mission or project.

(2) If it is determined that a procurement contract is the appropriate type of funding instrument to meet NASA's purposes, the procurement shall be conducted under the FAR and the NFS.

(c) A grant shall be used as the legal instrument to reflect a relationship between NASA and a recipient whenever the principal purpose is the transfer of a thing of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute. The following general characteristics meet the statutory criteria for use of a grant:

(1) Substantial involvement is not expected between NASA and the recipient when carrying out the activity.

(2) The exact course of the work and its outcome cannot be defined precisely and specific points in time for achievement of significant results cannot be realistically specified.

(3) Simplicity and economy in execution and administration are mutually desirable.

(4) Grants are distinguished from contracts in that grants provide financial or other tangible assistance to the recipient to carry on a fairly autonomous research program.

(d) The following defines various types of NASA grants:

(1) A research grant is used to accomplish a NASA objective through stimulating or supporting the acquisition of knowledge or understanding of the subject or phenomena under study, or attempting to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques and advance the state of the art.

(i) The research requires long term support (i.e., in excess of one year) for the study to mature to maximum scientific effectiveness (this does not preclude shorter-term grants;

(ii) NASA desires, or the nature of the proposed investigation is such, that the recipient will bear prime responsibility for the conduct of research, and exercises judgment and original thought toward attaining the scientific goals within broad parameters of the research areas proposed and the resources provided;

(iii) Meaningful technical reports (as distinguished from Performance Reports) can be prepared only as new findings are made, rather than on a predetermined time schedule.

(2) An education grant is an agreement that provides funds to an educational institution or other nonprofit organizations within one or more of the following areas:

(i) Capturing student interest and/or improving student performance in science, mathematics, technology, or related fields;

(ii) Enhancing the skill, knowledge, or ability of teachers or faculty members in science, mathematics, or technology;

(iii) Supporting national educational reform movements;

(iv) Conducting pilot programs or research to increase participation and/or to enhance performance in science, mathematics, or technology education at all levels; and

(v) Developing instructional materials (e.g., teacher guides, printed publications, computer software, and videotapes) or networked information services for education.

(3) A training grant is an agreement that provides funds to an educational institution or other non-profit organization solely by providing scholarships, fellowships, or stipends to students, teachers, and/or faculty.

(i) NASA training grants are awarded to colleges, universities, or other non-profit organizations; not to individual students, teachers, or faculty members. It is the responsibility of the institution receiving the grant to approve the faculty, teachers, and/or students who will participate in the specific program, in cooperation with NASA. If a student, teacher, or faculty member ceases to participate in the program for any reason, the institution, with prior NASA approval, may appoint another student, teacher, or faculty member to complete the remaining portion of the grant period. Replacement students, teachers, and/or faculty electing to apply for the following program year are not automatically entitled to an award and are subject to the evaluation/selection procedures administered to new applicants. Any participant receiving support under a NASA training grant may not concurrently hold another Federal fellowship or traineeship.

(ii) No applicant shall be denied consideration or appointment on the grounds of race, creed, color, national origin, age, sex, or disability.

(iii) Students and faculty receiving direct support under a NASA training grant must be U.S. citizens.

(iv) Duration of the award is program specific. Refer to program policies and procedures for details. Renewal is contingent upon a successful performance evaluation as prescribed by the program, concurrence by the NASA technical officer, and the availability of funds.

(v) No substantial involvement is expected between NASA and the recipient. A student or faculty member receiving support under a NASA training grant does not incur any formal obligation to the Government.

(vi) Unused funds may be carried over into the following program year without further NASA approval. This carryover amount need not be shown in the budget for the next program year.

(vii) The use of training grant funds to acquire equipment, passenger carrying vehicles, land (or any interest therein), or to acquire or construct facilities will not be permitted. Government furnished equipment will not be provided.

(viii) All foreign travel must be clearly essential to the research effort and must, to be charged to a grant, have the prior written approval of the NASA technical officer and the grant officer for each trip, regardless of its inclusion in the proposal budget.

(ix) An Administrative Report must be submitted under the guidelines described by the specific program policies and procedures.

(4) A facilities grant can be issued by NASA under the authority of the Space Act, 42 U.S.C. 2473(c)(5). It is used to provide for the acquisition, construction, use, maintenance, and disposition of facilities. Facilities, as used in this subpart, means property used for production, maintenance, research, development, or testing.

(i) Prior approval by the Associate Administrator of Procurement and a review by legal counsel to assure legal sufficiency are required. It is unlikely an award will be made unless Congressionally mandated.

(ii) To obtain approval, prior to proceeding with the award a package will be forwarded to the Director, Contract Management Division (HK), that includes pertinent background information, detailed rationale for the request, dollar value, and name of the recipient.

(e) A cooperative agreement shall be used as the legal instrument to reflect a relationship between NASA and a recipient whenever the principal purpose is the transfer of a thing of value to the recipient to accomplish a public

purpose of support or stimulation authorized by Federal statute and substantial involvement is expected between NASA and the recipient during performance of the contemplated activity. Under 31 U.S.C. 6305, characteristics inherent in a cooperative agreement include those that apply to a grant, plus the following:

(1) Substantial NASA involvement in and contribution to the technical aspects of the effort are necessary for its accomplishment. This could involve an active NASA role in collaborative relations, access to a NASA site or equipment, or sharing NASA facilities and personnel;

(2) The project, conducted as proposed, would not be possible without extensive NASA-recipient technical collaboration;

(3) The nature of the collaboration can be clearly defined and specified in advance (special provision §1260.51 shall be used). Cooperative agreements would be appropriate, for instance, where a university investigator works for a substantial amount of time at a NASA Center (or a NASA investigator works at a university), or when the collaboration is such that a jointly authored report or education curriculum product is appropriate.

(f) Grants and cooperative agreements with foreign organizations are awarded under the authority of the Space Act, 42 U.S.C. 2473(c)(5).

(1) Before initiating action, the grant officer shall coordinate with the Headquarters Office of External Relations, International Relations Division (Code IR). Grants to other than foreign government institutions require a review by the Office of General Counsel.

(2) It is NASA policy that, in general, research will be accomplished on a no-exchange-of-funds basis with foreign entities. In these cases, NASA enters into agreements undertaking projects of international scientific collaboration. In rare instances, NASA may enter into an international agreement under which funds will be transferred to a foreign recipient.

§1260.13 Award procedures.

(a) *Award instruments*—(1) *Annual grant.* Grant may be awarded for a short term (e.g., on an annual basis).

(2) *Multiple year grant.* NASA policy is to make maximum use of multiple year grants to support research projects that may span several years. A multiple year grant is generally selected for a period of three years in keeping with NASA's policy calling for research to be peer reviewed at least every three years.

(i) If the decision to provide multiple year funding to a research proposal is made, the special condition in §1260.52, ''Multiple Year Grants'', will be included in the award.

(ii) Periods approved under the Multiple Year Grants special condition in §1260.52, and funded at the levels specified in the special condition, are not considered to be new awards. Therefore, new proposals, new proposal-related certifications (such as Drug Free Workplace and Debarment and Suspension) and new technical evaluations are not required.

(iii) If NASA program constraints or developments within the research project dictate a reduction in the funding level specified under a multiple year grant period, research may continue at the reduced level under the terms of the special condition; however, the recipient may rebudget under the grant provisions to keep the project within the funding actually provided.

(3) *Supplements.* A supplement to a grant may be issued at any time when work is introduced which is outside the scope of the approved proposal; or when there is a need for substantial unanticipated funding. Supplements require the submission of revised budget proposals and technical evaluations. Since Supplements will be performed within the existing period of performance, certifications will not normally be required.

(4) *Extensions.* Grant may be extended beyond the expiration date in accordance with §1260.22, ''Extensions'', if additional time beyond the established period of performance is required to assure adequate completion of the original scope of work within the available funding.

(5) *Renewals.* Grant renewals provide for continuation of research beyond the original scope, period of performance